

1 KAMALA D. HARRIS  
Attorney General of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 MICHAEL BROWN  
Deputy Attorney General  
4 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
5 Telephone: (213) 897-8944  
Facsimile: (213) 897-2804  
6 E-mail: MichaelB.Brown@doj.ca.gov  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **TRITIA LOUISE JOHNSON**  
13 1365 Crafton Ave., Apt. 2026  
Mentone, CA 92359  
Vocational Nurse License No. VN 229073

Case No. VN-2010-4795

**A C C U S A T I O N**

Respondent.

14  
15 Complainant alleges:

16 **PARTIES**

17 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in  
18 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric  
19 Technicians, Department of Consumer Affairs.

20 2. On or about August 23, 2007, the Board of Vocational Nursing and Psychiatric  
21 Technicians (Board) issued Vocational Nurse License No. VN 229073 to Tritia Louise Johnson  
22 (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to  
23 the charges brought herein and will expire on November 30, 2014, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board under the authority of the following  
26 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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**STATUTORY PROVISIONS**

4. Section 118, subdivision (b) provides, in pertinent part, that the expiration of a license shall not deprive the Bureau jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

6. Section 492 states, in pertinent part:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest."

1       7.     Section 2875 provides, in pertinent part, that the Board may discipline the holder of a  
2 vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of  
3 the Vocational Nursing Practice Act.

4       8.     Section 2878 states, in pertinent part:

5       "The Board may suspend or revoke a license issued under this chapter [the Vocational  
6 Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

7       "(a) Unprofessional conduct, which includes, but is not limited to, the following:

8       . . . .

9       "(f) Conviction of a crime substantially related to the qualifications, functions, and duties  
10 of a licensed vocational nurse, in which event the record of the conviction shall be conclusive  
11 evidence of the conviction."

12      9.     Section 2878.5 states, in pertinent part:

13      In addition to other acts constituting unprofessional conduct within the meaning of this  
14 chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed  
15 under this chapter to do any of the following:

16      "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed  
17 physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or  
18 administer to another, any controlled substance as defined in Division 10 of the Health and Safety  
19 Code, or any dangerous drug as defined in Section 4022.

20      "(b) Use any controlled substance as defined in Division 10 of the Health and Safety  
21 Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in  
22 a manner dangerous or injurious to himself or herself, any other person, or the public, or to the  
23 extent that the use impairs his or her ability to conduct with safety to the public the practice  
24 authorized by his or her license."

25      10.    Health and Safety Code section 11170 states:

26      "No person shall prescribe, administer, or furnish a controlled substance for himself."

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28      ///

11. Health and Safety Code section 11550, subdivision (a) states, in pertinent part:

“No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances.”

## REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 2518.6 states, in pertinent part:

• • • •

“(b) A licensed vocational nurse shall adhere to standards of the profession and shall incorporate ethical and behavioral standards of professional practice which include but are not limited to the following:

• • • •

(4) Abstaining from chemical/substance abuse; and

• • • •

“(c) A violation of this section constitutes unprofessional conduct for purposes of initiating disciplinary action.”

13. California Code of Regulations, title 16, section 2521 states, in pertinent part:

"For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare."

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1 **COSTS RECOVERY**

2 14 Section 125.3 provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licensee found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 15. **CONTROLLED SUBSTANCES**

7 a. "Heroin," is a Schedule I controlled substance as designated by Health and Safety  
8 Code section 11054, sub division (c)(11) and is categorized as a dangerous drug pursuant to  
9 section 4022.

10 b. "Norco," is the brand name for Hydrocodone and Acetaminophen. It is a Schedule III  
11 controlled substance as designated by Health and Safety Code section 11056(e)(4) and is  
12 categorized as a dangerous drug pursuant to section 4022.

13 c. "Opiates," is a Schedule I controlled substance as designated by Health and Safety  
14 Code section 11054, subdivision (b) and is categorized as a dangerous drug pursuant to section  
15 4022.

16 16. **DANGEROUS DRUG**

17 "Ultram," is the brand name for Tramadol, an effective pain reliever (analgesic) and is  
18 categorized as a dangerous drug pursuant to section 4022.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Conviction of a Substantially Related Crime)**

21 17. Respondent is subject to disciplinary action under sections 2878, subdivision (f) and  
22 490, in conjunction with California Code of Regulations, title 16, section 2521, in that  
23 Respondent has been convicted of a substantially related to the qualifications, functions or duties  
24 of a licensed vocational nurse, as follows:

25 a. On or about, June 13, 2011, after pleading nolo contendere, Respondent was  
26 convicted of one misdemeanor count of violating Penal Code section 504a [embezzlement:  
27 property under lease (over \$400)] in the criminal proceeding entitled *The People of the State of*  
28 *California v. Tertia Louise Johnson* (Super. Ct. San Bernardino County, 2011, No. FSB1102135).

1 The Court sentenced Respondent to serve 120 days in San Bernardino County Jail and ordered  
2 pronouncement of Judgment withheld and conditional and revocable release granted for a period  
3 of 36 months, with terms and conditions. On or about November 8, 2012, there was an ex parte  
4 hearing re: revocation of probation, and Respondent failed to appear. The Court ordered  
5 Respondent's probation revoked and set Bail at \$120,000.00. The circumstances surrounding the  
6 conviction are that on or about March 18, 2011, during an embezzled vehicle investigation at  
7 Hertz, in Redlands, CA, by the Redlands Police Department, the Manager, Trenton B. (T.B.), was  
8 contacted. He indicated that on or about December 17, 2010, Respondent rented a vehicle from  
9 Hertz with a scheduled return date of December 23, 2010. During the rental period, Respondent  
10 extended the rental contract. On or about January 26, 2011, T.B. determined that he had lost  
11 control of the rental vehicle, because Respondent failed to return numerous calls to return the  
12 vehicle and money was owed on the rental contract. On or about, January 28, 2011, Hertz  
13 Corporate Office sent Respondent a demand letter for the vehicle, by certified return receipt mail.  
14 However, the certified letter was returned unclaimed on March 7, 2011. On or about June 7,  
15 2011, a warrant was issued, Respondent was arrested, and the vehicle was recovered at Rancho  
16 Superior Court.

17 b. On or about July 25, 2005, after pleading nolo contendere, Respondent was convicted  
18 of one misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) [driving  
19 while driving privilege is suspended or revoked] and one misdemeanor count of Vehicle Code  
20 section 40508 [failure to appear on written promise] in the criminal proceeding entitled *The*  
21 *People of the State of California v. Tritis Louise Johnson* (Super. Ct. San Bernardino County,  
22 2005, No. 729693TJ). The Court ordered pronouncement of Judgment withheld and conditional  
23 and revocable release granted for a period of 36 months, with terms and conditions. The  
24 circumstances surrounding the conviction are that on or about October 28, 2004, Respondent  
25 drove a vehicle while her driving privilege was suspended or revoked. In addition, on or about  
26 December 23, 2004, Respondent failed to appear on a written promise at the San Bernardino  
27 County Superior Court at 8:30 a.m. for Arraignment on this matter.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Illegal Possession, Prescribing, or Self-Administration of Controlled Substances)**

3 18. Respondent is subject to disciplinary action under section 2878, subdivision (a), as  
4 defined in 2878.5, subdivision (a) for violating Health and Safety Code section 11170, in that  
5 Respondent illegally possessed, prescribed, or self-administered controlled substances to herself.  
6 On or about May 12, 2011, during an execution of a search warrant for the sale of narcotics at  
7 1220 North Belle Street, in San Bernardino, by the San Bernardino Police Department,  
8 Respondent was detained. During a search of Respondent's person, the officer located used  
9 needles in her jacket and a burnt spoon in her purse. While speaking to Respondent, the officer  
10 detected that Respondent was acting strange, shaking uncontrollably, and sweating profusely.  
11 When asked if she had any medical problems, Respondent indicated that she took Norco and  
12 Tramadol for pain in her back. When asked if she had taken any other medications, Respondent  
13 stated, "no." When asked if she had taken any illegal narcotics, Respondent stated, "no." The  
14 officer performed a few field sobriety tests to determine if Respondent was under the influence of  
15 a controlled substance. The first test was to check Respondent's forearm for any puncture or  
16 fresh needle marks. The officer located several raised injection sites on both her right and left  
17 forearms. Respondent's veins were discolored with a blue tint that ran up her forearms in the area  
18 of the puncture marks. She was observed to have extremely constricted pupils and no reaction to  
19 direct light. Respondent had a white coating on her tongue and eye flutters. Based on these signs  
20 and symptoms, the officer formed the opinion that Respondent was under the influence of both a  
21 stimulant and an Opiate possibly Heroin. Respondent was subsequently arrested for violating  
22 Health and Safety Code section 11550, subdivision (a) [under the influence of a controlled  
23 substance]. During the booking procedure, Respondent submitted to a blood test that resulted  
24 positive for Opiates.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Use/Under the Influence of a Controlled Substance)**

27 19. Respondent is subject to disciplinary action under section 2878, subdivision (a), as  
28 defined in 2878.5, subdivision (b), in that Respondent used and/or was under the influence of a

1 controlled substance. Complainant refers to, and by this reference incorporates, the allegations  
2 set forth above in paragraph 18, as though set forth fully.

3 **DISCIPLINARY CONSIDERATIONS**

4 20. In order to determine the degree of discipline, if any to be imposed on Respondent,  
5 Complainant alleges that on or about May 23, 2011, the Board issued Citation and Fine No. CV  
6 2009-1550 to Respondent for violating California Code of Regulations, title 16, section 2504.1,  
7 resulting in the issuance of a \$250.00 fine. On or about December 12, 2012, Respondent  
8 complied with the citation, as set forth below:

- 9 a. On or about November 12, 2009, the Board mailed a notice to Respondent's address  
10 of record on file with the Board requesting information regarding Respondent's conviction.  
11 b. On or about April 7, 2010, the Board mailed a final notice by to Respondent's address  
12 of record on file with the Board, by certified mail.  
13 c. Respondent failed to respond to the Board's requests for information within 30 days  
14 as prescribed by existing statute and regulation, resulting in a fine and/or order of abatement.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
17 and that following the hearing, the Board issue a decision:

- 18 1. Revoking or suspending Vocational Nurse License No. VN 229073, issued to Tritia  
19 Louise Johnson;  
20 2. Ordering Tritia Louise Johnson to pay the Board the reasonable costs of the  
21 investigation and enforcement of this case, pursuant to section 125.3; and  
22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: 5/30/13

24   
TERESA BELLO-JONES, J.D., M.S.N., R.N.

25 Executive Officer  
26 Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
Complainant

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